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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,919	08/21/2003	Carlos F. Barbas	TSRI 645.2 CI	1946
26621	7590	05/24/2005	EXAMINER	
THE SCRIPPS RESEARCH INSTITUTE OFFICE OF PATENT COUNSEL, TPC-8 10550 NORTH TORREY PINES ROAD LA JOLLA, CA 92037			CARLSON, KAREN C	
		ART UNIT	PAPER NUMBER	
		1653		

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/646,919	BARBAS, CARLOS F.
	Examiner Karen Cochrane Carlson, Ph.D.	Art Unit 1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 10, 11 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

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Claims 1-9 have been canceled New Claims 10 and 11 are currently pending and are subject to restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 10, drawn to a zinc finger nucleotide binding polypeptide comprising 2 to 6 nucleotide binding regions selected from SEQ ID NOs: 17-110, classified in class 530, subclass 300.
- II. Claim 11, drawn to a composition comprising 2 to 12 nucleotide binding regions selected from SEQ ID NOs: 17-110, classified in class 514, subclass 12.

The inventions are distinct, each from the other because of the following reasons:

SEQ ID NOs: 17-110 differ in structure and in function. Therefore, these sequences are considered to be patentably distinct. Claims 10 and 11 have been separated because the polypeptide comprises 2 to 6 nucleotide binding regions selected from SEQ ID NOs: 17-110 within a single polypeptide sequence, while Claim 11 is drawn to a composition of individual peptides selected from SEQ ID NOs: 17-110.

If Applicants elect Group I, Claim 10, Applicants must also elect 2 to 6 sequences selected from SEQ ID NOs: 17-110. It will be understood that any of the SEQ ID NOs: 17-110 elected by Applicants will be found within the same polypeptide sequence.

If Applicants elect Group II, Claim 11, Applicants must also elect 2 to 12 sequences selected from SEQ ID NOs: 17-110. It will be understood that any of the SEQ ID NOs: 17-110 elected by Applicants will be found as individual, unconnected, peptides within the same composition.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Cochrane Carlson, Ph.D. whose telephone number is 571-272-0946. The examiner can normally be reached on 7:00 AM - 4:00 PM, off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Karen Cochrane Carlson Ph.D

**KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER**